

Environmental Protection Agency

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AUTHORITY: 42 U.S.C. 4321 *et seq.*, 7401–7671q, unless otherwise noted.

SOURCE: 72 FR 53662, Sept. 19, 2007, unless otherwise noted.

Subpart A—General Provisions for EPA Actions Subject to NEPA

§ 6.100 Policy and purpose.

(a) The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, as implemented by the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500 through 1508), requires that Federal agencies include in their decision-making processes appropriate and careful consideration of all environmental effects of proposed actions, analyze potential environmental effects of proposed actions and their alternatives for public understanding and scrutiny, avoid or minimize adverse effects of proposed actions, and restore and enhance environmental quality to the extent practicable. The U.S. Environmental Protection Agency (EPA) shall integrate these NEPA requirements as early in the Agency planning processes as possible. The environmental review process shall be the focal point to ensure NEPA considerations are taken into account.

(b) Through this part, EPA adopts the CEQ Regulations (40 CFR Parts 1500 through 1508) implementing NEPA; subparts A through C of this part supplement those regulations, for actions proposed by EPA that are subject to NEPA requirements. Subparts A through C supplement, and are to be used in conjunction with, the CEQ Regulations.

§ 6.101 Applicability.

(a) Subparts A through C of this part apply to the proposed actions of EPA that are subject to NEPA. EPA actions subject to NEPA include the award of wastewater treatment construction grants under Title II of the Clean Water Act, EPA's issuance of new source National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the Clean Water Act, certain research and development projects, development and issuance of regulations, EPA actions involving renovations or new construction of facilities, and certain grants awarded for projects authorized by Congress through the Agency's annual Appropriations Act.

(b) Subparts A through C of this part do not apply to EPA actions for which NEPA review is not required. EPA actions under the Clean Water Act, except those identified in § 6.101(a), and EPA actions under the Clean Air Act are statutorily exempt from NEPA. Additionally, the courts have determined that certain EPA actions for which analyses that have been conducted under another statute are functionally equivalent with NEPA.

(c) The appropriate Responsible Official will undertake certain EPA actions required by the provisions of subparts A through C of this part.

(d) Certain procedures in subparts A through C of this part apply to the responsibilities of the NEPA Official.

(e) Certain procedures in subparts A through C of this part apply to applicants who are required to provide environmental information to EPA.

(f) When the Responsible Official decides to perform an environmental review under the *Policy for EPA's Voluntary Preparation of National Environmental Policy Act (NEPA) Documents*, the Responsible Official generally will follow the procedures set out in subparts A through C of this part.

§ 6.102 Definitions.

(a) Subparts A through C of this part use the definitions found at 40 CFR part 1508. Additional definitions are listed in this subpart.

(b) *Definitions.* (1) *Administrator* means the Administrator of the United

States Environmental Protection Agency.

(2) *Applicant* means any individual, agency, or other entity that has:

(i) Filed an application for federal assistance;

(ii) Applied to EPA for a permit; or

(iii) Requested other EPA approval.

(3) *Assistance agreement* means an award of federal assistance in the form of money or property in lieu of money from EPA to an eligible applicant including grants or cooperative agreements.

(4) *Environmental information document* (EID) means a written analysis prepared by an applicant that provides sufficient information for the Responsible Official to undertake an environmental review and prepare either an EA and FONSI or an EIS and record of decision (ROD) for the proposed action.

(5) *Environmental review or NEPA review* means the process used to comply with section 102(2) of NEPA or the CEQ Regulations including development, supplementation, adoption, and revision of NEPA documents.

(6) *Extraordinary circumstances* means those circumstances listed in section 6.204 of this part that may cause a significant environmental effect such that a proposed action that otherwise meets the requirements of a categorical exclusion may not be categorically excluded.

(7) *NEPA document* is a document prepared pursuant to NEPA.

(8) *NEPA Official* is the Assistant Administrator for Enforcement and Compliance Assurance, who is responsible for EPA's NEPA compliance.

(9) *Responsible Official* means the EPA official responsible for compliance with NEPA for individual proposed actions.

[72 FR 53662, Sept. 19, 2007, as amended at 74 FR 5993, Feb. 4, 2009]

§ 6.103 Responsibilities of the NEPA and Responsible Officials.

(a) The NEPA Official will:

(1) Ensure EPA's compliance with NEPA pursuant to 40 CFR 1507.2(a) and the regulations in subparts A through C of this part.

(2) Act as EPA's liaison with the CEQ and other federal agencies, state and local governments, and federally-recognized Indian tribes on matters of policy

and administrative procedures regarding compliance with NEPA.

(3) Approve procedural deviations from subparts A through C of this part.

(4) Monitor the overall timeliness and quality of EPA's compliance with subparts A through C of this part.

(5) Advise the Administrator on NEPA-related actions that involve more than one EPA office, are highly controversial, are nationally significant, or establish new EPA NEPA-related policy.

(6) Support the Administrator by providing policy guidance on NEPA-related issues.

(7) Assist EPA's Responsible Officials with establishing and maintaining adequate administrative procedures to comply with subparts A through C of this part, performing their NEPA duties, and training personnel and applicants involved in the environmental review process.

(8) Consult with Responsible Officials and CEQ regarding proposed changes to subpart A through C of this part, including:

(i) The addition, amendment, or deletion of a categorical exclusion, or

(ii) Changes to the listings of types of actions that normally require the preparation of an EA or EIS.

(9) Determine whether proposed changes are appropriate, and if so, coordinate with CEQ, pursuant to 40 CFR 1507.3, and initiate a process to amend this part.

(b) The Responsible Official will:

(1) Ensure EPA's compliance with the CEQ regulations and subparts A through C of this part for proposed actions.

(2) Ensure that environmental reviews are conducted on proposed actions at the earliest practicable point in EPA's decision-making process and in accordance with the provisions of subparts A through C of this part.

(3) Ensure, to the extent practicable, early and continued involvement of interested federal agencies, state and local governments, federally-recognized Indian tribes, and affected applicants in the environmental review process.

(4) Coordinate with the NEPA Official and other Responsible Officials, as